

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

**PROPOSED REGULATIONS FOR MANUFACTURERS AND
DISTRIBUTORS OF COMMERCIAL FEED**

Title 3. CALIFORNIA CODE OF REGULATIONS

SECTION 2751: Licensing

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Feed, Fertilizer, Livestock Drugs and Egg Regulatory Services

1220 N Street

Sacramento, CA 95814

916-445-0444

**CALIFORNIA CODE OF REGULATIONS
TITLE 3. FOOD AND AGRICULTURE
DIVISION 4. PLANT INDUSTRY
CHAPTER 2. FIELD CROPS
SUBCHAPTER 2. COMMERCIAL FEED
ARTICLE 11. INSPECTION TAX AND PLANT LICENSES**

NOTICE OF PROPOSED RULE MAKING

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) proposes to amend Section 2751 of the regulations in Title 3 of the California Code of Regulations pertaining to Licensing.

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comment relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on March 31, 2008. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Kent Kitade, Program Supervisor
Feed, Fertilizer, Livestock Drug and Egg Regulatory Services Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Notice is hereby given that the Department of Food and Agriculture, pursuant to the authority vested by Sections 407 and 15051 of the Food and Agricultural Code, and to implement, interpret, or make specific Section 15053 of the Food and Agricultural Code, proposes to amend regulations in Title 3 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 15053 of the California Food and Agricultural Code authorizes the Secretary with recommendation from the Feed Inspection Advisory Board, to set the licensing fee between \$100 and \$600. Section 15053(b) allows the Secretary, with recommendation from the Feed Inspection Advisory Board, to reduce the inspection tonnage tax when the operating reserve exceeds 25% of the program's operating costs.

Within the authority of California Food and Agricultural Code, Section 15053, the Department is proposing to amend Section 2751 of the California Code of Regulations by adding Section 2751(b) to set the commercial feed license fee at \$300 per year, effective July 1, 2008. Existing regulation: Section 2751(a) exempts retail stores who sell packaged commercial feed labeled by licensed feed manufacturers from the licensing requirement.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other non-discretionary cost or saving imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action:

Adoption of these regulations will not:

1. Create or eliminate jobs within California;
2. Create new businesses or eliminate existing businesses within California; or
3. Affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

EFFECT ON SMALL BUSINESS

The Department has initially determined that the proposed change in the regulation would result in no added costs to small businesses affected by the proposed change because the proposed license fee does not exceed statutory limits and the slight increase will be offset by a reduction in the inspection tonnage tax.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Kent Kitade, Program Supervisor
Feed, Fertilizer, Livestock Drug and Egg Regulatory Services Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814
916-445-2140

The backup contact person for these inquiries is:

Dale Rice, Program Supervisor
Feed, Fertilizer, Livestock Drug and Egg Regulatory Services Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814
916-445-0444

Please direct requests for copies of the proposed text of the regulation, the initial statement of reason, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Mr. Kitade at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at 560 J Street, Suite 220, Sacramento, CA 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice; the proposed text of the regulations; the initial statement of reasons; the Feed Inspection Advisory Board meeting minutes; the letter of support from California Grain and Feed Association; and Sections 15051, 15053 and 15054 of the Food and Agricultural Code and Section 2751 of the California Code of Regulations. Copies may be obtained by contacting Mr. Kitade at the contact address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department

makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Mr. Kitade at the contact address listed previously. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mr. Kitade at the previously listed address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at: www.cdfa.ca.gov/is/regulation.htm

DEPARTMENT OF FOOD AND AGRICULTURE

Date

George Deese, Deputy Secretary